IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

Bail Appl..No. 6913 of 2007()

CRIME NO.333/07 OF BALARAMAPURAM MUSEUM POLICE STATION

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PETITIONERS/ACCUSED

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1. KRISHNANKUTTY, AGED 41 YEARS
   S/O.PONNU NADAR, CHIRATHALAVILAKATHU VEEDU,
   SIVANKOLI ROAD, THALAYAL DESOM,
   BALARAMAPURAM ATHIVANOOR VILLAGE,
   THIRUVANANTHAPURAM.

2. BINDU, AGED 37 YEARS,
   W/O.KRISHNANKUTTY RESIDING AT
   DO..DO..

BY ADV. SRI.G.P.SHINOD
SRI.RAM MOHAN.G.
SRI.MANU V.

RESPONDENTS:

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1. STATE OF KERLA REPRESENTED BY ITS
   PUBLIC PROSECUTOR AT THE HIGH COURT OF KERALA
   ERNAKULAM.

2. THE SUB INSEPCTOR OF POLICE
   BALARAMAPURAM POLICE STATION
   BALARAMAPURAM THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6913 of 2007

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Dated this the 15th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2. Altogether there are two accused persons. The crux of the allegations is that the petitioners had defrauded the bank and had availed a loan by using forged documents. The property originally belonged to the first accused. He deposited the title deed and availed a loan from another bank. Subsequently he executed a settlement deed in favour of the second accused, his wife. Both of them together availed a subsequent loan from the complainant bank. In such transaction, the earlier transaction of the first accused with the other bank was totally suppressed. Forged false documents were also produced along with the said settlement deed to bolster the claim of the petitioners. It is in these circumstances that allegations are raised by the complainant bank under Sections 420, 468 and 471

I.P.C. Crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. There was no suppression of the earlier transaction with the other bank. He further submits that the documents produced are all genuine and not forged. In these circumstances the petitioners do not deserve to endure the trauma of arrest and detention. They shall co-operate with the investigation. Subject to appropriate conditions, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor opposes the application. He submits that it is idle to assume that accused 1 and 2 did make the suppression of the earlier transaction without fraudulent intention. The learned Prosecutor submits that the available materials clinchingly indicate that the petitioners had produced forged documents to support their claim.

4. I have considered all the relevant inputs. The case diary has been placed before me. My attention has particularly been drawn to the relevant portion in the case diary which shows that the documents produced by the petitioners to support their claim for loan are all non-genuine and forged documents. I shall carefully avoid any detailed discussion on merit about the acceptability of the allegations raised or the credibility of the data collected, lest it might prejudicially affect the case of the petitioners at later stages. Suffice it to say that, I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioners appear before the Investigating Officer or the learned

Magistrate having jurisdiction and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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